

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 11254 of 2002

ORDER:

This writ petition is filed seeking *Writ of Certiorari* calling for the records pertaining to the Award, dated 25.04.2001 in I.D.No.154 of 1999 on the file of the Industrial Tribunal-cum-Labour Court, Godavari Khani and published on 7.7.2001 *vide* G.O.Rt.No.1337, dated 11.6.2001 and to quash the same by reinstating the petitioner with all consequential benefits.

Heard Sri C.A.R. Sheshagiri Rao, learned counsel for the petitioner and learned Standing Counsel for the respondents.

It is contended by the petitioner that he was initially appointed as Night Watchman on 23.9.1990 on daily wage basis. While he was discharging his duties, there was an allegation that he has committed theft of cement bags from godown. Subsequently, after surrendering him to the 2nd respondent, he has been working under the control of the 2nd respondent, but the 2nd respondent did not pay the remuneration to him from 10.10.1995 onwards. Earlier the second respondent had issued a show cause notice to him in October, 1995 and he had submitted an explanation on 22.11.1995. Again, the second respondent had issued another show cause notice on 13.12.1995 calling for the explanation from the petitioner as to why he should not be removed from service. He had submitted the explanation on 29.12.1995. It is submitted by the petitioner that not satisfying with the explanation submitted by the petitioner, he was removed from service *vide* orders dated 7.1.1996 of the District Collector/Executive Director of the A.P. State Housing Corporation Limited, Karimnagar. Aggrieved by the orders of removal, the

petitioner had filed W.P.No.2323 of 1996. This Court *vide* orders dated 28.10.1999 dismissed the writ petition No.2323 of 1996 confirming the order of removal. However, liberty had been given to the petitioner to pursue the alternative remedy to him under the Industrial Disputes Act. Thereafter, the petitioner had filed I.D.No.154 of 1999 under Section 2-A(2) of the Industrial Disputes Act, 1947. The Industrial Tribunal, after considering the entire case dismissed the I.D.No.154 of 1999 on 25.4.2001. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner would contend that the order of removal is a stigmatic one and no enquiry was conducted as per law laid in the Judgment rendered by this Court in the case of **NMDC Ltd., Hyderabad Vs. Sagar Pani¹**. It is further contended that whenever the removal orders are passed, the respondents are bound to conduct enquiry and that since, no enquiry was conducted in the instant case, the orders passed by the Industrial Tribunal are liable to be set aside and the petitioner is entitled to be reinstated into service.

Learned Standing Counsel appearing for the respondent-Corporation would contend that the petitioner was given an opportunity before passing the removal orders and no illegality has been done to the petitioner by the respondent-Corporation and that there are no merits in the case of the petitioner. Therefore, the Industrial Tribunal-cum-Labour Court, Godavarikhani by exercising powers under section 2-A(2) of the Industrial Disputes Act, 1947, rightly dismissed the I.D.No.154 of 1999 preferred by the petitioner.

This Court, having considered the rival submissions of both the parties, is of the considered view that the contention of the petitioner that enquiry should be conducted before imposing the punishment of

¹ 2018(2)ALD 154(DB)

removal, whenever there is an allegation of theft leveled against the petitioner. Learned counsel for the petitioner is right in respect of that proposition of law. But however, the same argument was advanced before this Court in W.P.No.2323 of 1996 and while passing the orders dated 28.10.1999 in the said writ petition, a reliance has been placed on the Judgment in the case of **Nuti Venkata Rao vs. Superintending Engineer²** and also in the case of **Ved Prakash vs. the Haryana State Handloom and Handicrafts Corporation Ltd., Chandigarh³**. This Court had considered those two Judgments and gave a finding that the facts stated in the above said cases are not applicable to the facts of the present case and came to a conclusion that after following the procedure, as contemplated under the rules itself, the petitioner was removed from service. That particular portion of the order was not challenged and it has become final. When once the contentions raised by the petitioner were considered by the High Court in W.P.No.2323 of 1996, dated 28.10.1999, this Court cannot re-appreciate the very same fact.

In view of the above, there are no merits in the writ petition and the same is liable to be dismissed and it is accordingly, dismissed.

Miscellaneous petitions pending if any, shall stand closed. No costs.

ABHINAND KUMAR SHAVILI, J

Date: 17.9.2018
Slk

² 1990(3)SLR 654

³ 1990(6) SLR 678

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



WRIT PETITION No. 11254 of 2002

Dated:17/09/2018

slk